

CONTI ENTERPRISES, INC.,)	AGBCA No. 97-191-1
)	
Appellant)	
)	
Representing the Appellant:)	
)	
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DECISION OF THE BOARD OF CONTRACT APPEALS

March 26, 1999

OPINION BY ADMINISTRATIVE JUDGE HOWARD A. POLLACK

This appeal arises under Contract No. 50-3D47-3-16, between Conti Enterprises, Inc., of South Plains, New Jersey (Conti or Appellant), and the Natural Resources Conservation Service (NRCS or Government), U. S. Department of Agriculture, Morgantown, West Virginia. The August 21, 1997 appeal is from a denial by the Contracting Officer (dated June 6, 1997) of Conti's claim for additional costs Appellant claimed it incurred in complying with Government directives concerning the construction of the emergency spillway for the Lost River Watershed, Site 4 project. Conti claimed entitlement to \$5,924,582.39 in additional payments. In addition, Conti contested a counterclaim by NRCS of \$194,286.56 for costs NRCS said it incurred due to Conti not carrying out its responsibilities under the contract.

After filing pleadings, the parties engaged in extensive discovery, including a motion to compel production. The Board held several telephone conferences regarding these procedural matters and ultimately set a hearing for November 1998.

On September 14, 1998, the Board held a telephone conference at the request of Appellant. Due to certain events that had occurred during discovery, Counsel for the Appellant requested a stay in order to re-evaluate its position. The stay was granted by the Board. Thereafter, another stay was requested and granted; however, this time with the caveat that any further stay would only be allowed for compelling reasons.

By letter from NRCS counsel, dated January 29, 1999, the Board was advised that the parties had settled the appeal. Enclosed with the letter was a Joint Motion to Dismiss with Prejudice. Thereafter, on February 8, 1999, the Board received a Mutual Release and Settlement Agreement entered into by the parties. The release was signed by each party on February 2, 1999.

DECISION

In accordance with the settlement agreement of the parties and the Joint Motion to Dismiss with Prejudice, this matter is dismissed with prejudice.

HOWARD A. POLLACK
Administrative Judge

Concurring:

JOSEPH A. VERGILIO
Administrative Judge

EDWARD HOURY
Administrative Judge

Issued at Washington, D. C.
March 26, 1999